

Application No. 10/589,320
Paper Dated: April 27, 2010
In Reply to USPTO Correspondence of January 27, 2010
Attorney Docket No. 3135-062156

REMARKS

Claims 13 and 25-37 are currently pending in the present application with claim 13 being in independent form. Claim 13 is currently amended to indicate that the intraocular lens includes at least two optical elements of which at least one can be shifted relative to any other element in a direction extending perpendicular to the optical axis when in the eye. Additionally, claim 13 is amended to state that the optical elements have a saddle shaped surface. Support for amended claim 13 can be found, for example, in the FIGS. as filed. New claims 25 and 26 are supported, for example, by original claims 22 and 24 as well as by the application as filed. Particularly, new claim 26 requires optical elements having saddle shaped surfaces which are rotated for focusing. Claim 27 is newly added and finds support in United States Patent No. 3,305,294 which is incorporated by reference into the present application in paragraph [007]. New claim 28 includes an artificial intraocular lens with driving means to execute a movement and which driving means are connected to the ciliary muscle of the eye and is supported by paragraph [0024] of the application as filed. New claim 29 is directed towards an artificial intraocular lens with adjusting means for adjustment of the resting state of the artificial intraocular lens, for example, to correct for a refractive error which can remain after cataract surgery and finds support, for example, in paragraph [0010] of the application as filed. New claims 30 and 31 are supported by previous claim 13 as well as the FIGS. as filed. New claim 32, which finds support in original claim 14, requires the elastic haptics and non-elastic haptics to be connected to opposite sides of the optical elements. Rearrangement of the elastic and non-elastic haptics would destroy the functionality of the intraocular lens. Newly added claim 33 finds support in original claim 20 and newly added claim 34 finds support in the specification as filed. Newly added claims 35-37 find support, for example, in paragraphs [0024], [0025], [0055] and original claims 23 and 24. In view of the claim amendments and following remarks, removal of the rejections and allowance of claims 13 and 25-37 are respectfully requested.

35 U.S.C. § 103

Alvarez in view of Tillay

Claims 13-24 are rejected under 35 U.S.C. § 103(a) as being obvious over United States Patent No. 3,305,294 to Alvarez (hereinafter “Alvarez”) in view of United States Patent No. 4,666,445 to Tillay (hereinafter “Tillay”).

Claim 13 is directed to an artificial intraocular lens of variable optical power comprising at least two optical elements (1, 2) which can be shifted relative to any other element in a direction extending perpendicular to the optical axis when in the eye. At least two of the optical elements (1, 2) of claim 13 have a saddle shaped surface (3, 4) and, in combination, form a lens of which the optical power varies depending on the relative position of the optical elements.

Under United States patent practice, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art. *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007). If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. MPEP 2143.01 Additionally, the “suggested combination of references cannot require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate.” MPEP 2143.01

Alvarez is directed toward a variable-focus lens of two optical elements which are used in spectacles or bifocals.

The invention of claim 13 is directed towards an artificial intraocular lens of variable optical power. The intraocular lens of the claimed invention is designed for use in the eye [0024]. As indicated in the specification, the claimed method is intended to continuously focus by the ciliary muscle of the eye, the natural muscle for accommodation (see, for example, the Abstract and [0009]).

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The teachings of Alvarez do not provide a saddle shaped intraocular lens of variable optical power designed for use within the eye. Specifically, the teachings of Alvarez are directed to the spectacles which are adjusted for focus, at intervals, by hand. Particularly, the teachings of Alvarez are limited to variable-focus lenses to replace bifocal spectacles and adjustable spectacles for distant and close vision. Therefore, to teach or suggest the claimed intraocular lenses for use within the eye, the eyeglasses of Alvarez would have to be substantially reconstructed and redesigned and cannot render the claimed invention obvious.

Tillay is directed towards intraocular lenses with memory alloy utilized to increase the stability at the haptic-optic connection. The memory alloy allows the haptics to fold, such that insertion of the intraocular lens is possible, as well as to unfold to give proper stability to the lens. Tillay does not teach or suggest multiple optical elements with moving optical elements or accommodative lenses as required by claim 13. Additionally, the haptics described by Tillay cannot adjust the focal power of the lens and the memory alloy of Tillay cannot provide an accommodative function as is required by the present invention.

For at least the reasons previously discussed, Tillay does not account for the deficiencies of the teachings of Alvarez. In particular, independent claim 13 requires an intraocular lens designed for accommodative use within the eye. None of the teachings in Tillay or Alvarez provides any reason to modify the specific teachings of Alvarez to practice the features of claim 13. Removal of the rejection and allowance of claim 13 are respectfully requested.

Newly added claims 25-37 depend either directly or indirectly from and further define claim 13 and are also believed to be patentable over the teachings of Alvarez in view of Tillay. Therefore, removal of the rejections and allowance of claims 13 and 25-37 are respectfully requested.

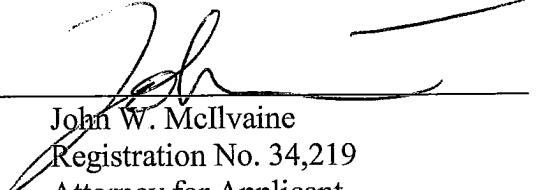
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CONCLUSION

In view of the above remarks, reconsideration of the rejections and allowance of claims 13 and 25-37 are respectfully requested.

Respectfully submitted,

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